



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
21st Session
-

NR0078E1
(+ Annex)
O. Eng.

Brussels, December 1999.

NEW SUBHEADING EXPLANATORY NOTE FOR WASTE OILS OF HEADING 27.10

(Item II.A.5 on Agenda)

Reference documents :

NC0090E2 Annex F/1, para.11 (HSC/23 – Report)
NR0052B1 Paragraph 6 (RSC/20)
NR0072E2 Paragraphs 22 and 23 (RSC/20 – Report)
NC0104E1 (HSC/24)
NC0160E2 Annex E, Paragraphs 1 and 2 (HSC/24 – Report)

I. BACKGROUND

1. At its 23rd Session, the Harmonized System Committee requested the Review Sub-Committee to examine the question of a Subheading Explanatory Note for waste oils.
2. In this connection, the Secretariat at the 20th Session of the Review Sub-Committee noted that the intention of inserting a new Part II and a new exclusion (a) to the Explanatory Note to heading 27.10 (already adopted) was to clarify the scope of waste oils and felt that the creation of a new Subheading Explanatory Note in this respect might be unnecessary.
3. However, the Delegate of Canada stated that his Administration would probably submit a proposal in this regard depending upon the advice from the Canadian Customs Laboratory. Another delegate stressed that, since the Harmonized System Committee found it desirable to draft such a Subheading Explanatory Note, the Sub-Committee should do so.
4. Therefore, the Sub-Committee instructed the Secretariat to prepare a draft Subheading Explanatory Note concerning waste oils on the basis of the proposal to be submitted by Canada and information already available to the Secretariat.
5. At its 24th Session, the Harmonized System Committee decided that the RSC/20 results concerning the amendments to the Explanatory Notes would be discussed at the 25th Session together with RSC/21 results accompanied by a synthesis document to be prepared by the Secretariat.

File No. 2151

II. NOTE FROM CANADA

6. On 3 December 1999, the Secretariat received the following note from Canada :
- 6.1. "Further to points raised in the Report of the 20th Session of the RSC, the Canadian Customs Administration has reviewed the question of a potential submission of a proposal for a possible Subheading Explanatory Note concerning waste oils.
- 6.2. After serious consideration of the matter and consultations with our Customs laboratory, it has been determined that Canada will not be submitting a proposal in respect of a possible Subheading Explanatory Note concerning waste oils of heading 27.10.
- 6.3. It is suggested that, for the moment, the new Part (II) WASTE OILS provides reasonable guidance for the classification of waste oils.
- 6.4. We would like to bring to your attention for examination some editorial comments with respect to a portion of Annex D/5 to Doc. NR0072B2 (RSC/20/Sept. 99), Page 229. Heading 27.10. 1. New part (II).
- In (1), first line, the word "products" is misspelled.
 - In (1), fourth line, there seems to be a misalignment of text between "result mainly from draining out of these chemicals" and "provenant essentiellement de la vidange"..."

III. SECRETARIAT COMMENTS

7. It appears that Canada now subscribes to the Secretariat's view in that the provisionally adopted new part "(II) WASTE OILS" of the Explanatory Note to heading 27.10 provides reasonable guidance for the classification of waste oils.
8. In respect of the editorial comments by Canada on item (1) of the new part "(II) WASTE OILS", the Secretariat found that the spelling of the term "products" is correct. However, the Secretariat agrees with Canada that the French version of the expression "result mainly from draining out of these chemicals" could be better aligned with the English version. If the Sub-Committee agrees, the Secretariat proposes insertion of the expression "de ces produits chimiques" between "vidange" and "du" in the fifth line of the French version of item (1).
9. As regards the possible Subheading Explanatory Note concerning waste oils, the Secretariat found the following information in paragraphs 9 to 11, 15, 16 and 19 of Doc. 39.160 :
- "9. The proposal concerns "waste mineral oils unfit for their originally intended use" (category Y8 of the Basel Convention). It is indicated that these wastes generally arise from refined mineral oils due to contamination or degradation during their use (e.g., used lubricating oils, used hydraulic oils, etc.). Contamination of fuel oils with water due to spillage also results in waste oils. These waste oils are generally reprocessed into primary products or used as secondary fuels. It is indicated that significant transborder movement exists in waste mineral oils, as many countries do not have reprocessing facilities (about 24,000 tonnes per year).

10. In this connection, it is recalled that a similar proposal was submitted by the Indian Administration for the separate identification of "waste/used lubricating oils" and "sludge of furnace oil from ships' tanks" (see Docs. 38.693 and 38.994). According to the Indian Administration, the used lubricating oil (described as "waste oil"), on chemical test, was found to be in the form of a dark coloured liquid composed of hydrocarbon oil, water, dirt and carbonaceous matter, flashing above 94°C. The sludge of furnace oil (described as "sludge oil"), obtained from ship's tanks, was also in the form of a dark coloured liquid composed of mineral oil (which had the characteristics of furnace oil), water, carbonaceous dirt, etc.
11. On the basis of information available, the Secretariat understands that waste oils fall into the following categories :
- (a) Used oils no longer fit for use as primary products (e.g., used lubricating oils, used hydraulic oils, used transformer oils, etc.);
 - (b) Sludge oils from the storage tanks of petroleum products mainly containing mineral oils and a high concentration of additives (e.g., chemicals) used for preparing the primary products and other contaminants; and
 - (c) Waste oils in the form emulsions in water such as those resulting from oil spills, storage tank washings or from the use of cutting oils for machining operations.
15. [The] proposal concerns wastes of category Y10 of the Basel Convention relating to waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs), polychlorinated triphenyls (PCTs) and/or polybrominated biphenyls (PBBs).
16. It has been stated that, though these chemicals are no longer allowed to be produced or traded as such in view of their adverse effects on environment, several products containing these materials are still in use. These are mainly electrical equipments such as heat exchangers, transformers or switch gears containing dielectric fluids based on PCBs or PCTs. There are also other products containing these materials in use to a very limited extent (e.g., brake linings, carbonless copy paper, cable insulations, fire retardants, paints and varnishes) and they are being progressively phased out. The transfrontier movement of these articles in the form of waste will have to be monitored to ensure their destruction in an environmentally sound manner (about 4,000 tonnes per year).
19. It should also be noted that in many cases of electrical equipments containing PCBs or PCTs, these chemicals are drained out to substitute with other permissible fluids ("retrofilling"). The drained out liquids are generally in the form of waste mineral oils containing these chemicals. These waste oils would be classifiable in the new subheading which might be created for "waste oils" on the basis of proposal No. 2 above..."
10. It should be noted that the new Note 3 to Chapter 27 and new part "(II) WASTE OILS" of the Explanatory Note to heading 27.10 have been drafted on the basis of the information excerpted above. The reason behind the Secretariat's hesitance in respect of drafting a new Subheading Explanatory Note regarding waste oils is the possibility of changing the scope of new subheading 2710.9 already defined by new Chapter Note 3 and the text of subheading 2710.91.
11. Nevertheless, the Secretariat recalls that, at the 13th Session of the Sub-Committee, the Observer for the OECD had proposed to replace the expression "and a high concentration of" with the expression "together with" in the second line of new Note 3 (b) to Chapter 27, explaining that the intention of his proposal was to cover the sludge oils arising from synthetic lubricating oils which contained little or no petroleum oils. However, noting that heading 27.10 could include only those oils meeting the requirement of Note 2 to Chapter 27, the Sub-Committee rejected the OECD proposal (see Annex A/1 to Doc. 40.180, RSC/13 – Report). Therefore, if the Sub-Committee finds it appropriate, the Secretariat would have no objection to including this observation in the form of a new Subheading Explanatory Note concerning waste oils.

12. Based on the above comments, the Secretariat has drafted suitable Explanatory Note amendments set out in the Annex to this document. Once agreed by the Sub-Committee, these amendments will be included in the synthesis document, as indicated in paragraph 5 above for examination by the Harmonized System Committee for examination at its 25th Session.

IV. CONCLUSION

13. Taking into account the note from Canada and the Secretariat comments, the Sub-Committee is invited to examine the draft Explanatory Note amendments set out in the Annex to this document.

* * *

ANNEXE

NOUVELLE NOTE EXPLICATIVE DE SOUS-POSITION DU N° 27.10

RELATIVE AUX DÉCHETS D'HUILE

(Point II.A.5 de l'ordre du jour)

ANNEX

NEW SUBHEADING EXPLANATORY NOTE

FOR WASTE OILS OF HEADING 27.10

(Item II.A.5 on Agenda)

PROCEDURE DE L'ARTICLE 16

MODIFICATIONS DES NOTES EXPLICATIVES

Page 227. N° 27.10. Libellé.

Insérer "+" à la fin du libellé de position.

Page 229. N° 27.10.

1. Nouvelle Partie II. Alinéa 1). Cinquième ligne.

Remplacer "la vidange du" par "la vidange de ces produits chimiques du".

2. Nouvelle Note explicative de sous-position.

ARTICLE 16 PROCEDURE

AMENDMENTS TO THE EXPLANATORY NOTES

Page 227. Heading 27.10. Heading text.

Insert “+” at the end of the heading text.

Page 227. Heading 27.10.

1. New Part II. Item (1). Fifth line.

French text only.

2. New Subheading Explanatory Note.

Insert the following new Subheading Explanatory Note :

“0
0 0

Subheading Explanatory Note.

Subheadings 2710.91 and 2710.99

Subject to Notes 2 and 3 to this Chapter, these subheadings do not cover waste containing mainly synthetic oils.”
